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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,281	02/01/2002	Max Friedheim	1776-11	2057

7590 12/13/2004

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EXAMINER

PAIK, SANG YEOP

ART UNIT PAPER NUMBER

3742

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/066,281
Filing Date: February 01, 2002
Appellant(s): FRIEDHEIM, MAX

Joseph R. Evanns
For Appellant

MAILED
DEC 14 2004
GROUP 3700

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/31/04.

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(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-27 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(9) Prior Art of Record

6,393,212	Hutchinson	5-2002
5,471,556	Friedheim	11-1995
4,414,037	Friedheim	11-1983
3,863,841	Berthoud	02-1975

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-8, 11, 12, 26 and 27 are rejected under 35 U.S.C. 102, and claims 1-27 are rejected under 35 U.S.C 103. This rejection is set forth in a prior Office Action, mailed on 2.12.04.

(11) Response to Argument

The applicant states that Hutchinson does not meet every limitation of the claimed invention, and further states that the Hutchinson device is a steam generator whereas the claimed invention is based upon a flash boiler. Examiner notes that the claimed invention recites a vapor generator and not a flash boiler.

The applicant argues that Hutchinson which regulates its input of liquid to the vapor generator based on its output does not meet the claimed invention and is a complete contrast to the regulation of the applicant's invention that provides "adjustable control means for controlling input into said vaporization chamber whereby generation of superheated vapor is controllable". The applicant argues that all control in Hutchinson is at the output port. The applicant's arguments are not persuasive in light of Hutchinson which clearly shows the liquid input device

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such as a piston pump that controls the liquid input along with the other mean such as the microprocessor control system.

Even if the control means are activated in response to the steam output, the piston pumps and the microprocessor still need to adjust the amount of liquid that will be fed into the steam generator to produce the desired heating output. Such control means clearly meets the claimed recitation of the “adjustable control means”. The applicant argues that there are basic differences in structure and function between Hutchinson and the instant invention but there are no other elements or structures claimed to support the applicant’s argument for such difference.

Furthermore, the applicant argues that Hutchinson is in a totally different field from the applicant’s flash boiler. It is noted again that the flash boiler is not claimed. Also, it is noted that the Hutchinson device is in the same field of endeavor of steam generator that produces superheated vapors as does with the claimed invention. The Hutchinson device not only meets the claimed structure but also the function of producing the desired superheated vapors as does the applicant. The applicant’s arguments are not thus deemed persuasive.

The applicant argues that there is no point to an input port control due to relative slowness of the generation of the superheated vapors in Hutchinson. Whether the system is slow or not, Hutchinson meets the claimed invention, and without any claimed structural difference, the applicant has not established how the claimed invention would be different from that of Hutchinson. There is no claimed recitation with respect to speed at which the claimed invention operates in comparison with Hutchinson.

With respect to Berthoud, it is noted that the Berthoud reference is applied to show the plurality of valves that can direct the vapors in the claimed directions. The examiner recognizes

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that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation is clearly illustrated that allows for the output fluid to be directed in multiple directions as desired by the user. One of ordinary skill in the art would look to Berthoud to adapt or modify the prior art with such plurality of valves to direct its output steam to various directions as conveniently done in Berthoud.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Sang Y Paik
Primary Examiner
Art Unit 3742

S. R.

syp
December 8, 2004

Conferees
Primary Examiner Tu Hoang
Primary Examiner Joseph Pelham



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